

May 2, 1947

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ARIZONA ATTORNEY GENERAL

Mr. Max T. Layton,
Graham County Attorney,
Safford, Arizona.

Dear Mr. Layton:

We have your inquiry of March 28, 1947, in which you request an opinion as follows:

"Please furnish an opinion on the following proposition: Is the Independent Order of Odd Fellows exempt from taxation as a charitable or religious institution or for any other purpose?"

The Supreme Court of Arizona has held that laws exempting property for taxation are to be strictly construed and there is a presumption against the exemption. Conrad v. Maricopa County, 40 Ariz. 390, 12 Pac. (2d) 613; Toll v. Memorial Clinic v. Olesby, 42 Ariz. 93, 22 Pac. (2d) 1076; City of Phoenix v. Lowles, et al, (Decided April 23, 1947, not yet reported).

In all of the above cases the court, in reaching its decision, did so, as stated by the court, "applying these principles of law to the facts".

While you have not given us the facts surrounding the property of the Odd Fellows Lodge, we assume it involves real property used by the Lodge for Lodge purposes and a portion of which is rented either occasionally or as a regular practice to other organizations or to individuals. We further assume that the Lodge is organized for charitable purposes?

Applying the above assumed facts to the law as stated in the case of Conrad v. Maricopa County, supra, where the court there said:

"Even assuming Arizona Lodge No. 2 is a 'charitable institution' within the constitutional provisions, the Masonic Temple (the building) is not a 'charitable institution' within the terms of section 3066, supra, * * * *. The only connection which the Temple has with such relief is that the organization which owned it has that as one of its objects, and uses part of funds derived from many sources among which is the rental of certain portions of

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the temple for that purpose."

From the foregoing it will be seen that the Odd Fellows Lodge could not claim exemption as either a charitable or religious institution unless its property was used principally for charitable or religious purposes.

It is therefore our opinion that, regardless of the purposes for which the Odd Fellows Lodge was organized, unless its property is used principally for religious or charitable purposes it is not exempt from taxation.

Very truly yours,

JOHN L. SULLIVAN,
Attorney General

PERRY M. LING,
Assistant Attorney General

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